

By

Duncan

S.B. No. 719

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of barbers and cosmetologists under the Texas Board of Barber and Cosmetologist Examiners and the abolition of the State Board of Barber Examiners and the Texas Cosmetology Commission.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 132, Revised Statutes, is amended by adding Article 8475 to read as follows:

Art. 8475. TEXAS BOARD OF BARBER AND COSMETOLOGIST EXAMINERS

Sec. 1. DEFINITIONS. In this article:

(1) "Barber" means a person licensed as a barber under Chapter 65, Acts of the 41st Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's Texas Civil Statutes).

(2) "Board" means the Texas Board of Barber and Cosmetologist Examiners.

(3) "Cosmetologist" means a person licensed as a cosmetologist under Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas Civil Statutes).

Sec. 2. BOARD. (a) The Texas Board of Barber and Cosmetologist Examiners is composed of nine members appointed by the governor. Board members serve staggered six-year terms, with the terms of three members expiring on February 1 of each odd-numbered year.

1 (b) The members of the board are appointed as follows:

2 (1) three members must be licensed barbers, one of
3 whom must be a practicing barber, one of whom must be the owner of
4 a barber shop, and one of whom must be the owner of a barber school
5 or college;

6 (2) three members must be licensed cosmetologists, one
7 of whom must be a practicing cosmetologist, one of whom must be the
8 owner of a beauty or specialty shop, and one of whom must be the
9 owner of a private beauty culture school; and

10 (3) three members must be representatives of the
11 general public.

12 (c) For the purposes of Section 5(d) of this article only,
13 the agency administrator of the Texas Workforce Commission or that
14 official's designee is an ex officio member of the board with
15 voting privileges.

16 (d) A person is not eligible for appointment as a public
17 member of the board if the person or the person's spouse:

18 (1) is registered, certified, or licensed by an
19 occupational regulatory agency in the field of barbering or
20 cosmetology;

21 (2) is employed by or participates in the management
22 of a business entity or other organization regulated by the board
23 or receiving funds from the board;

24 (3) owns or controls, directly or indirectly, more
25 than a 10 percent interest in a business entity or other
26 organization regulated by the board or receiving funds from the
27 board; or

1 (4) uses or receives a substantial amount of tangible
2 goods, services, or funds from the board, other than compensation
3 or reimbursement authorized by law for board membership,
4 attendance, or expenses.

5 (e) An officer, employee, or paid consultant of a Texas
6 trade association in the field of barbering or cosmetology may not
7 be a member of the board and may not be an employee of the board
8 who is exempt from the state's position classification plan or is
9 compensated at or above the amount prescribed by the General
10 Appropriations Act for step 1, salary group 17, of the position
11 classification salary schedule.

12 (f) A person who is the spouse of an officer, manager, or
13 paid consultant of a Texas trade association in the field of
14 barbering or cosmetology may not be a member of the board and may
15 not be an employee of the board who is exempt from the state's
16 position classification plan or is compensated at or above the
17 amount prescribed by the General Appropriations Act for step 1,
18 salary group 17, of the position classification salary schedule.

19 (g) For the purposes of this section, a Texas trade
20 association is a nonprofit, cooperative, and voluntarily joined
21 association of business or professional competitors in this state
22 designed to assist its members and its industry or profession in
23 dealing with mutual business or professional problems and in
24 promoting their common interest.

25 (h) A vacancy on the board shall be filled by appointment
26 by the governor of a person with the appropriate qualifications to
27 serve for the remainder of the term.

1 (i) Appointments to the board shall be made without regard
2 to the race, color, disability, sex, religion, age, or national
3 origin of the appointees.

4 (j) The Texas Board of Barber and Cosmetologist Examiners is
5 subject to Chapter 325, Government Code (Texas Sunset Act). Unless
6 continued in existence as provided by that chapter, the board is
7 abolished and this article, Chapter 65, Acts of the 41st
8 Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's
9 Texas Civil Statutes), and Chapter 1036, Acts of the 62nd
10 Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas
11 Civil Statutes), expire September 1, 2009.

12 Sec. 3. GROUNDS FOR REMOVAL. (a) It is a ground for
13 removal from the board if a member:

14 (1) does not have at the time of appointment the
15 qualifications required by Section 2 of this article;

16 (2) does not maintain during service on the board the
17 qualifications required by Section 2 of this article;

18 (3) violates a prohibition established by this section
19 or Section 6 of this article;

20 (4) cannot because of illness or disability discharge
21 the member's duties for a substantial part of the term for which
22 the member is appointed; or

23 (5) is absent from more than half of the regularly
24 scheduled board meetings that the member is eligible to attend
25 during a calendar year unless the absence is excused by majority
26 vote of the board.

27 (b) The validity of an action of the board is not affected

1 by the fact that it is taken when a ground for removal of a board
2 member exists.

3 (c) If the executive director has knowledge that a potential
4 ground for removal exists, the executive director shall notify the
5 presiding officer of the potential ground. The presiding officer
6 shall then notify the governor and the attorney general that a
7 potential ground for removal exists. If the potential ground for
8 removal involves the presiding officer, the executive director
9 shall notify the next highest officer of the board, who shall
10 notify the governor and the attorney general that a potential
11 ground for removal exists.

12 Sec. 4. OFFICERS; MEETINGS. (a) The board shall elect
13 annually from the membership of the board a presiding officer,
14 assistant presiding officer, and secretary-treasurer.

15 (b) The board shall meet at least annually and at other
16 times at the call of the presiding officer.

17 Sec. 5. BOARD POWERS AND DUTIES. (a) The board shall adopt
18 rules consistent with this article for:

19 (1) the administration of this article and the
20 operation of the board;

21 (2) the administration of Chapter 65, Acts of the 41st
22 Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's
23 Texas Civil Statutes), subject to Subsection (c) of this section;
24 and

25 (3) the administration of Chapter 1036, Acts of the
26 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's
27 Texas Civil Statutes), subject to Subsection (d) of this section.

1 (b) The board shall adopt application, examination,
2 licensing, and renewal fees in amounts that are reasonable and
3 necessary to provide sufficient revenue to cover the costs of
4 administering the programs under the authority of the board. The
5 fees set by the board may be adjusted so that the total fees
6 collected are sufficient to meet the expenses of administering the
7 board's responsibilities.

8 (c) In administering Chapter 65, Acts of the 41st
9 Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's
10 Texas Civil Statutes), only the public members and the three barber
11 members of the board may adopt rules or participate in disciplinary
12 proceedings under this article. The participation of four barber
13 and public members is required for a quorum under this subsection.

14 (d) In administering Chapter 1036, Acts of the 62nd
15 Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas
16 Civil Statutes), only the public members, the ex officio member,
17 and the three cosmetologist members may adopt rules or participate
18 in disciplinary proceedings under this article. The participation
19 of four cosmetologist, public, and ex officio members is required
20 for a quorum under this subsection.

21 (e) The board may appoint an executive director. The
22 executive director may hire other personnel as necessary for the
23 administration of this article.

24 Sec. 6. CONFLICT OF INTEREST. A person may not serve as a
25 member of the board or act as the general counsel to the board if
26 the person is required to register as a lobbyist under Chapter 305,
27 Government Code, because of the person's activities for

1 compensation on behalf of a profession related to the operation of
2 the board.

3 Sec. 7. ANNUAL FISCAL REPORT. The board shall prepare
4 annually a complete and detailed written report accounting for all
5 funds received and disbursed by the board during the preceding
6 fiscal year. The annual report must meet the reporting
7 requirements applicable to financial reporting provided in the
8 General Appropriations Act.

9 Sec. 8. PERSONNEL POLICIES. (a) The executive director or
10 the executive director's designee shall develop an intra-agency
11 career ladder program that addresses opportunities for mobility and
12 advancement for employees within the board. The program shall
13 require intra-agency posting of all positions concurrently with any
14 public posting.

15 (b) The executive director or the executive director's
16 designee shall develop a system of annual performance evaluations
17 that are based on documented employee performance. All merit pay
18 for board employees must be based on the system established under
19 this subsection.

20 (c) The board shall develop and implement policies that
21 clearly separate the policymaking responsibilities of the board and
22 the management responsibilities of the executive director and the
23 staff of the board.

24 Sec. 9. PUBLIC INTEREST INFORMATION. (a) The board shall
25 prepare information of public interest describing the functions of
26 the board and the procedures by which complaints are filed with and
27 resolved by the board. The board shall make the information

1 available to the public and appropriate state agencies.

2 (b) The board by rule shall establish methods by which
3 consumers and service recipients are notified of the name, mailing
4 address, and telephone number of the board for the purpose of
5 directing complaints to the board. The board may provide for that
6 notification:

7 (1) on each registration form, application, or written
8 contract for services of a person regulated under this article;

9 (2) on a sign prominently displayed in the place of
10 business of each person regulated under this article; and

11 (3) in a bill for service provided by a person
12 regulated under this article.

13 (c) The board shall develop materials and programs to
14 educate the public concerning the licensing requirements imposed
15 under this article, the need of the public to conduct business only
16 with a licensed barber or cosmetologist, and the methods for
17 reporting unlicensed activity.

18 Sec. 10. AGENCY FUNDS. All money paid to the board under
19 this article is subject to Subchapter F, Chapter 404, Government
20 Code.

21 Sec. 11. COMPLAINTS. (a) The board shall keep information
22 about each complaint filed with the board. The information shall
23 include:

24 (1) the date the complaint is received;

25 (2) the name of the complainant;

26 (3) the subject matter of the complaint;

27 (4) a record of all persons contacted in relation to

1 the complaint;

2 (5) a summary of the results of the review or
3 investigation of the complaint; and

4 (6) for complaints for which the board did not take
5 action, an explanation of the reason the complaint was closed
6 without action.

7 (b) The board shall keep a file about each written complaint
8 filed with the board that the board has authority to resolve. The
9 board shall provide to the person filing the complaint and the
10 persons or entities complained about the board's policies and
11 procedures pertaining to complaint investigation and resolution.
12 The board, at least quarterly and until final disposition of the
13 complaint, shall notify the person filing the complaint and the
14 persons or entities complained about of the status of the complaint
15 unless the notice would jeopardize an undercover investigation.

16 Sec. 12. EQUAL EMPLOYMENT OPPORTUNITY. (a) The executive
17 director or the executive director's designee shall prepare and
18 maintain a written policy statement to assure implementation of a
19 program of equal employment opportunity under which all personnel
20 transactions are made without regard to race, color, disability,
21 sex, religion, age, or national origin. The policy statement must
22 include:

23 (1) personnel policies, including policies relating to
24 recruitment, evaluation, selection, appointment, training, and
25 promotion of personnel that are in compliance with the requirements
26 of Chapter 21, Labor Code;

27 (2) a comprehensive analysis of the board workforce

1 that meets federal and state guidelines;

2 (3) procedures by which a determination can be made
3 about the extent of underuse in the board workforce of all persons
4 for whom federal or state guidelines encourage a more equitable
5 balance; and

6 (4) reasonable methods to appropriately address those
7 areas of underuse.

8 (b) A policy statement prepared under Subsection (a) of this
9 section must cover an annual period, be updated annually and
10 reviewed by the Commission on Human Rights for compliance with
11 Subsection (a)(1) of this section, and be filed with the governor's
12 office.

13 (c) The governor's office shall deliver a biennial report to
14 the legislature based on the information received under Subsection
15 (b) of this section. The report may be made separately or as a
16 part of other biennial reports made to the legislature.

17 Sec. 13. STANDARDS OF CONDUCT. The executive director or
18 the executive director's designee shall provide to members of the
19 board and to board employees, as often as necessary, information
20 regarding their qualification for office or employment under this
21 article and their responsibilities under applicable laws relating
22 to standards of conduct for state officers or employees.

23 Sec. 14. PUBLIC ACCESS. (a) The board shall develop and
24 implement policies that provide the public with a reasonable
25 opportunity to appear before the board and to speak on any issue
26 under the jurisdiction of the board.

27 (b) The board shall comply with federal and state laws

1 related to program and facility accessibility. The executive
2 director shall also prepare and maintain a written plan that
3 describes how a person who does not speak English can be provided
4 reasonable access to the board's programs and services.

5 Sec. 15. OPEN MEETINGS; ADMINISTRATIVE PROCEDURE. The
6 board is subject to Chapter 551, Government Code, and Chapter 2001,
7 Government Code.

8 Sec. 16. BOARD MEMBER TRAINING. (a) Before a member of the
9 board may assume the member's duties and before the member may be
10 confirmed by the senate, the member must complete at least one
11 course of the training program established under this section.

12 (b) A training program established under this section shall
13 provide information to the member regarding:

14 (1) the enabling legislation that created the board to
15 which the member is appointed to serve;

16 (2) the programs operated by the board;

17 (3) the role and functions of the board;

18 (4) the rules of the board, with an emphasis on the
19 rules that relate to disciplinary and investigatory authority;

20 (5) the current budget for the board;

21 (6) the results of the most recent formal audit of the
22 board;

23 (7) the requirements of the:

24 (A) open meetings law, Chapter 551, Government
25 Code;

26 (B) open records law, Chapter 552, Government
27 Code; and

1 (C) administrative procedures law, Chapter 2001,
2 Government Code;

3 (8) the requirements of the conflict of interest laws
4 and other laws relating to public officials; and

5 (9) any applicable ethics policies adopted by the
6 board or the Texas Ethics Commission.

7 SECTION 2. Article 8402, Revised Statutes, is amended to
8 read as follows:

9 Art. 8402. REGISTERING NAME AND LOCATION. (a) Every
10 person, firm, or corporation owning, operating or managing a barber
11 shop or specialty shop shall register his full name and the
12 location of said shop with the Texas [State] Board of Barber and
13 Cosmetologist Examiners and must hold a permit for that shop. An
14 applicant for a barber shop permit or specialty shop permit must
15 submit an application to the [barber] board for the appropriate
16 permit.

17 (b) In order that the public may fix responsibility for
18 services, acts, or treatments performed by a barber [persons]
19 licensed by the Texas [State] Board of Barber and Cosmetologist
20 Examiners vis-a-vis those performed by a cosmetologist [persons]
21 licensed by that board [~~the--Texas--Cosmetology--Commission~~], to
22 promote the efficient and orderly administration of laws regulating
23 barbers and the practice of barbering and the laws regulating
24 cosmetologists and the practice of cosmetology, and to avoid
25 confusion of the public [~~as--well--as--avoiding--conflicts--of~~
26 ~~jurisdiction-between-such-board-and-commission-which--might--impede~~
27 ~~effective--administration--or--enforcement--of-the-laws-under-their~~

1 ~~respective-jurisdictions]:~~

2 (1) a person licensed as a ~~[by--the]~~ barber by the
3 board may practice only at a location for which the board has
4 issued a barber shop permit, specialty shop permit, barber school
5 or college permit, or any other permit~~[--If-the-State-Board-of~~
6 ~~Barber-Examiners-and-the-Texas-Cosmetology-Commission--license--the~~
7 ~~same--facility,--the--board--may--not--adopt--rules--restricting-or~~
8 ~~prohibiting-the-practice-by-a-Class-A-barber,--manicurist,--or--wig~~
9 ~~specialist-in-the-facility]; and~~

10 (2) a person licensed as a cosmetologist by the board
11 ~~[cosmetology--commission]~~ may practice cosmetology only at a
12 location for which the board ~~[commission]~~ has issued a beauty shop
13 license, private beauty culture school license, or any other
14 license. ~~[If--the--State--Board-of-Barber-Examiners-and-the-Texas~~
15 ~~Cosmetology-Commission-license-the-same--facility,--the--commission~~
16 ~~may--not--adopt--rules-restricting-or-prohibiting-the-practice-by-a~~
17 ~~cosmetologist-in-the-facility.]~~

18 (c) ~~[If-the-State-Board-of-Barber-Examiners--and--the--Texas~~
19 ~~Cosmetology--Commission-license-the-same-facility,--the-agencies-may~~
20 ~~not-adopt-rules-requiring:~~

21 ~~[1)--that-the-work-areas-of-barbers-and-cosmetologists~~
22 ~~practicing-in-the-facility-be-separated;~~

23 ~~[2)--that-the--waiting--areas--for--customers--of--the~~
24 ~~barbers-and-cosmetologists-practicing-in-the-facility-be-separated;~~

25 ~~[3)--that-the-facility-have-separate-restrooms-for-the~~
26 ~~barbers--or--cosmetologists--practicing--in-the-facility-or-for-the~~
27 ~~customers-of-the-barbers-and-cosmetologists;-or~~

1 ~~[(4)--that-the-barbers-and-cosmetologists-practicing-in~~
2 ~~the-facility-or-the-customers-of-the-barbers-and-cosmetologists--be~~
3 ~~treated-separately-from-each-other-in-any-similar-manner-~~

4 [(d)] There shall at all times be prominently displayed in
5 each shop and salon regulated under this Act[7] a sign in letters
6 no smaller than one inch in height, the contents of which shall
7 contain the name, mailing address, and telephone number of the
8 [regulatory] board [~~having--jurisdiction--over--those-individuals~~
9 ~~licensed-under-this-Act]~~ and [~~which--shall--contain]~~ a statement
10 informing consumers that complaints against licensees can be
11 directed to the [regulatory] board.

12 SECTION 3. Section 1, Chapter 65, Acts of the 41st
13 Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's
14 Texas Civil Statutes), is amended to read as follows:

15 Sec. 1. It shall be unlawful for any person to engage in the
16 practice or attempt to practice barbering in the State of Texas
17 without a certificate or registration as a registered barber issued
18 pursuant to the provisions of this Act[7] by the Texas Board of
19 Barber and Cosmetologist Examiners [~~hereinafter-created~~].

20 SECTION 4. Sections 3(g) and (h), Chapter 65, Acts of the
21 41st Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's
22 Texas Civil Statutes), are amended to read as follows:

23 (g) No person may operate a barber shop unless the shop is
24 at all times under the sole and exclusive supervision and
25 management of a registered Class A barber[7] and no person is
26 practicing on the premises by authority of a cosmetologist [any]
27 license, permit, or certificate issued by the board [Texas

1 Cosmetology-Commission].

2 (h) A person operating under a permit who wishes to move his
3 operation to another location approved by the board may do so by
4 notifying the board 10 [~~Board-of-Barber-Examiners-ten~~] days before
5 he makes the move.

6 SECTION 5. Sections 4(a)-(1), Chapter 65, Acts of the 41st
7 Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's
8 Texas Civil Statutes), are amended to read as follows:

9 (a) "Barber" [~~"barber"~~] shall mean any person who
10 performs, offers, or attempts to perform any act of barbering,
11 professes to do barbering or to be engaged in the practice thereof,
12 or who directly or indirectly or in any manner whatsoever
13 advertises or holds himself out as a barber or as authorized to
14 practice barbering.[7]

15 (b) "Barbering," [~~"barbering,"~~] "practicing
16 barbering," or the "practice of barbering" shall mean the
17 performing or doing, or offering or attempting to do or perform,
18 any, all or any combination of the following acts, services, works,
19 treatments, or undertakings:

20 (1) arranging, beautifying, coloring,
21 processing, shaving, styling, or trimming the mustache or beard by
22 any means or method;

23 (2) arranging, beautifying, bleaching,
24 cleansing, coloring, curling, dressing, dyeing, processing,
25 shampooing, shaping, singeing, straightening, styling, tinting,
26 waving, or otherwise treating the hair as primary services,
27 treatments, or undertakings by any means or method, including any

1 bobbing, clipping, cutting, or trimming of the hair as a necessary
2 incident preparatory or ancillary to such primary services;

3 (3) cutting the hair as a primary service,
4 treatment, or undertaking and not as a necessary incident
5 preparatory or ancillary to those primary services enumerated in
6 Section 4(b)(2), or primarily engaging in the occupation of cutting
7 hair or practicing primarily as a haircutter by cutting hair as a
8 separate and independent service, treatment, or undertaking for
9 which haircut a charge is made, as such, separate and apart from
10 any other service, treatment, or undertaking, directly or
11 indirectly, or in any manner whatsoever;

12 (4) cleansing, stimulating, or massaging the
13 scalp, face, neck, arms, or shoulders by means of the hands,
14 devices, apparatuses, or appliances, with or without the use of
15 cosmetic preparations, antiseptics, tonics, lotions, or creams;

16 (5) beautifying the face, neck, arms, or
17 shoulders by the use of cosmetic preparations, antiseptics, tonics,
18 lotions, powders, oils, clays, creams, or appliances;

19 (6) cutting, trimming, polishing, tinting,
20 coloring, cleansing, manicuring, or pedicuring the nails of any
21 person or attaching false nails;

22 (7) massaging, cleansing, treating, or
23 beautifying the hands of any person;

24 (8) administering facial treatments;

25 (9) hair weaving;

26 (10) shampooing or conditioning hair;

27 (11) servicing a wig, toupee, or artificial

1 hairpiece on a human head or on a block, subsequent to the initial
2 retail sale by any of the acts, services, works, treatments, or
3 undertakings enumerated in Section 4(b)(2) of this Act;

4 (12) advertising or holding out to the public by
5 any manner whatsoever that any person is a barber or authorized to
6 practice barbering;

7 (13) advertising or holding out to the public by
8 any manner whatsoever that any location or place of business is a
9 barber shop, specialty shop, barber school, barber college, or
10 barber salon; and

11 (14) receiving any fee, salary, compensation, or
12 financial benefit, or the promise of any fee, salary, compensation,
13 or financial benefit, for performing, doing, offering, or
14 attempting to perform or do any act, work, service, or thing, which
15 is any part of the practice of barbering as herein defined.[7]

16 (c) "Barber" ["barber"] shop" or "barber salon" shall
17 mean any place where barbering is practiced, offered, or attempted
18 to be practiced except when such place is duly licensed as a barber
19 school or college.[7]

20 (d) "Board" ["board"] shall mean the Texas [State]
21 Board of Barber and Cosmetologist Examiners. [~~as--established--and~~
22 ~~provided-for-in-the-Texas-Barber-Law~~7]

23 (e) "Certificate" ["certificate"] shall mean a
24 certificate of registration issued by the board in accordance with
25 the provisions of this Act.[7]

26 (f) "License" ["license"] shall mean any license
27 issued by the board in accordance with the provisions of this

1 Act.[7]

2 (g) "Manager" ["manager"] shall mean any person who
3 controls or directs the business affairs of a barber shop or
4 directs the work of a person employed in a barber shop or both.[7]

5 (h) "Manicurist" ["manicurist"] specialty shop" shall
6 mean any place where only the practice of barbering as defined by
7 Sections 4(b)(6) and (7) of this Act is performed for
8 compensation.[7]

9 (i) "Permit" ["permit"] shall mean any permit issued
10 by the board in accordance with the provisions of this Act.[7]

11 (j) "Person" ["person"] shall mean any individual,
12 association, firm, corporation, partnership, or other legal
13 entity.[7]

14 (k) "Specialty" ["specialty"] shop" shall mean a
15 manicurist specialty shop or a wig specialty shop.[7]

16 (l) "Wig" ["wig"] specialty shop" shall mean any place
17 where only the practice of barbering as defined by Section 4(b)(11)
18 of this Act is performed for compensation.

19 SECTION 6. Section 6, Chapter 65, Acts of the 41st
20 Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's
21 Texas Civil Statutes), is amended to read as follows:

22 Sec. 6. The following persons shall be exempt from the
23 provisions of this Act, provided such persons are not represented,
24 advertised, or held out to the public, directly or indirectly, or
25 in any manner whatsoever, as barbers, journeymen barbers, barber
26 technicians, or under any name, title, or designation indicating
27 such person is authorized to practice by authority of any license

1 or permit issued by the board:

2 (1) a doctor of medicine, doctor of osteopathic
3 medicine, or registered nurse licensed and regulated by the State
4 of Texas while operating within the scope of that person's license;

5 (2) commissioned or authorized medical or surgical
6 officers of the United States Army, Navy, or Marine Hospital
7 Service;

8 (3) persons licensed or practicing by authority of the
9 board [~~Texas--Cosmetology--Commission~~] under the provisions of
10 Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971
11 (Article 8451a, Vernon's Texas Civil Statutes), so long as such
12 persons practice within the scope of the license or permit duly
13 issued by the board [~~Texas-Cosmetology-Commission~~]; or

14 (4) an inmate incarcerated in the Texas Department of
15 Criminal Justice [~~Corrections~~] who performs barbering during the
16 period of incarceration.

17 SECTION 7. Section 11(b), Chapter 65, Acts of the 41st
18 Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's
19 Texas Civil Statutes), is amended to read as follows:

20 (b) No examination shall be held at a barber school,
21 college, or shop owned, managed, or operated by a member of the
22 board [~~State-Board-of-Barber-Examiners~~].

23 SECTION 8. Section 13, Chapter 65, Acts of the 41st
24 Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's
25 Texas Civil Statutes), is amended to read as follows:

26 Sec. 13. PERMIT TO PRACTICE AS JOURNEYMAN BARBER. Any
27 person who is at least 16-1/2 [~~sixteen-and-one-half~~] years of age,

1 and who has a diploma showing graduation from a seven-grade grammar
2 school, or its equivalent as determined by an examination conducted
3 by the board [Board], and either

4 (a) Has a license or certificate of registration as a
5 practicing barber from another State or country, which has
6 substantially the same requirements for licensing or registering
7 barbers as required by this Act, or

8 (b) Who can prove by personal affidavit that he has
9 practiced as a barber in another State for at least two years
10 immediately prior to making application in this State, and who
11 possesses the qualifications required by this Act, shall, upon
12 payment of the required fee, be issued a permit to practice as a
13 journeyman barber only until he is called by the board [Board--of
14 Barber-Examiners] to determine his fitness to receive a certificate
15 of registration to practice barbering. Should such applicant fail
16 to pass the required examination he shall be allowed to practice as
17 a journeyman barber until he is called by the board [Board] for the
18 next term of examination. Should he fail at the examination he
19 must cease to practice barbering in this State.

20 SECTION 9. Section 15A(f), Chapter 65, Acts of the 41st
21 Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's
22 Texas Civil Statutes), is amended to read as follows:

23 (f) A person who holds a license, permit, or certificate to
24 practice cosmetology issued by the board [Texas---Cosmetology
25 Commission] may not practice under that authority at a manicurist
26 specialty shop regulated under this Act.

27 SECTION 10. Section 16(c), Chapter 65, Acts of the 41st

1 Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's
2 Texas Civil Statutes), is amended to read as follows:

3 (c) The application shall be made on a form prescribed by
4 the board [~~commission~~] and a \$10 administration fee must accompany
5 the application.

6 SECTION 11. Section 18(f), Chapter 65, Acts of the 41st
7 Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's
8 Texas Civil Statutes), is amended to read as follows:

9 (f) A person who holds a license, permit, or certificate to
10 practice cosmetology issued by the board [~~Texas--Cosmetology~~
11 ~~Commission~~] may not practice under that authority at a wig
12 specialty shop regulated under this Act.

13 SECTION 12. Section 23a, Chapter 65, Acts of the 41st
14 Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's
15 Texas Civil Statutes), is amended to read as follows:

16 Sec. 23a. DUPLICATE CERTIFICATES. A duplicate registrant
17 certificate may be issued by the board [~~Board-of-Barber-Examiners~~]
18 on written application of the registrant and payment of a fee not
19 to exceed \$10.

20 SECTION 13. Section 27a(a), Chapter 65, Acts of the 41st
21 Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's
22 Texas Civil Statutes), is amended to read as follows:

23 (a) No barber inspector or other employee of the board
24 [~~State-Board-of-Barber--Examiners~~] may sell barber supplies or
25 engage in any other business which deals directly with barbers,
26 barber shops, specialty shops, or barber schools except that he may
27 engage in the practice of barbering.

1 SECTION 14. Section 28(a), Chapter 65, Acts of the 41st
2 Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's
3 Texas Civil Statutes), is amended to read as follows:

4 (a) The Texas Board of Health shall make, establish and
5 promulgate reasonable sanitary rules and regulations for the
6 conduct of barber shops, specialty shops, and barber schools. The
7 board [~~State-Board-of-Barber-Examiners~~], by and through the Texas
8 Department of Health, shall have authority, and it is made its duty
9 to enter upon the premises of all barber shops, specialty shops,
10 barber schools, or any place at which the board [~~State--Board--of~~
11 ~~Barber--Examiners~~] has probable cause to believe that any of its
12 certificate holders or licensees are practicing illegally and
13 inspect same at any time during business hours. On receipt of a
14 formal written complaint by any person that a person who holds a
15 barber or teacher certificate or license or a barber school, barber
16 college, or barber shop permit issued by the board [~~State-Board-of~~
17 ~~Barber-Examiners~~] has violated this Act, that board may inspect the
18 premises of the licensee or certificate holder to investigate the
19 complaint at any time during business hours. A copy of such
20 sanitary rules and regulations adopted by the Texas Board of Health
21 shall be furnished to the executive director of the board [~~State~~
22 ~~Board--of--Barber--Examiners~~] who shall in turn forward to each
23 barber, barber school or licensee of the board a copy of such rules
24 and regulations. A copy of the sanitary rules and regulations
25 promulgated and adopted by the Texas Board of Health shall be
26 posted in barber shops, specialty shops, and barber schools in this
27 State. Subject only to the authority of the Texas Board of Health

1 to make and promulgate reasonable rules and regulations as to
2 sanitation, the board [~~State-Board-of-Barber-Examiners~~] shall have
3 full authority and power to make and enforce all rules and
4 regulations necessary for the performance of its duties, to
5 establish standards of conduct and ethics for all persons licensed
6 or practicing under the provisions of this Act, and to regulate the
7 practice and teaching of barbering in all of its particulars in
8 keeping with the purposes and intent of this Act or to insure
9 strict compliance with and enforcement of this Act.

10 SECTION 15. Section 29, Chapter 65, Acts of the 41st
11 Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's
12 Texas Civil Statutes), is amended to read as follows:

13 Sec. 29. RECORDS OF BOARD. [~~a~~] The board [Board] shall
14 keep a record of its proceedings relating to the issuance, refusal,
15 renewal, suspension, and revocation of certificates of
16 registration, licenses, or permits. This record shall also contain
17 the name, place of business, and residence of each registered
18 barber, licensee, or permittee, and the date and number of his
19 certificate of registration, license, or permit. This record shall
20 be open to public inspection at all reasonable times.

21 [~~b~~]~~--The-Board-shall-prepare-information-of-public--interest~~
22 ~~describing--the--functions-of-the-Board-and-the-procedures-by-which~~
23 ~~complaints-are-filed-with-and-resolved-by--the--Board.---The--Board~~
24 ~~shall-make-the-information--available-to-the-public-and-appropriate~~
25 ~~state-agencies-~~

26 [~~c~~]~~--The--Board--by--rule--shall--establish-methods-by-which~~
27 ~~consumers-and-service-recipients-are-notified-of-the-name,--mailing~~

1 address,--and--telephone--number--of--the--Board-for-the-purpose-of
2 directing-complaints-to-the-Board.--The-Board-may-provide-for--that
3 notification-

4 [(1) --on---each---registration--form,--application,--or
5 written-contract-for-services-of-an-individual-or-entity--regulated
6 by-the-Board,

7 [(2) --on--a--sign-prominently-displayed-in-the-place-of
8 business-of-each-individual-or-entity-regulated-under-this-Act;-or

9 [(3) --in-a-bill-for-service-provided-by--an--individual
10 or-entity-regulated-by-the-Board-

11 [(d) --The--Board--shall--develop--and--implement-policies-that
12 provide-the-public-with-a-reasonable-opportunity-to--appear--before
13 the--Board--and-to-speak-on-any-issue-under-the-jurisdiction-of-the
14 Board-

15 [(e) --The-Board-shall-prepare-and--maintain--a--written--plan
16 that-describes-how-a-person-who-does-not-speak-English-or-who-has-a
17 physical,--mental,--or--developmental--disability--may--be-provided
18 reasonable-access-to-the-Board's-programs-]

19 SECTION 16. Section 1(2), Chapter 1036, Acts of the 62nd
20 Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas
21 Civil Statutes), is amended to read as follows:

22 (2) "Board" [~~"Commission"~~] means the Texas Board of
23 Barber and Cosmetologist Examiners [~~Cosmetology-Commission~~].

24 SECTION 17. Section 4, Chapter 1036, Acts of the 62nd
25 Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas
26 Civil Statutes), as amended by Chapters 416 and 777, Acts of the
27 73rd Legislature, Regular Session, 1993, is amended to read as

1 follows:

2 Sec. 4. POWERS AND DUTIES OF BOARD [THE-COMMISSION]. (a)
3 [The-commission-may-issue-rules-consistent-with-this--Act--after--a
4 public--hearing-in-accordance-with-the-Administrative-Procedure-and
5 Texas--Register--Act--(Article--6252-13a7--Vernon's---Texas---Civil
6 Statutes)-

7 [(b)] The board [commission] may not adopt rules restricting
8 competitive bidding or advertising by a person regulated by the
9 board under this Act [commission] except to prohibit false,
10 misleading, or deceptive practices by that person.

11 (b) [(c)] The board [commission] may not include in the
12 rules under this Act rules to prohibit false, misleading, or
13 deceptive practices by a person regulated by the board under this
14 Act [commission] a rule that:

- 15 (1) restricts the use of any medium for advertising;
16 (2) restricts the person's personal appearance or the
17 use of the person's voice in an advertisement;
18 (3) relates to the size or duration of an
19 advertisement by the person; or
20 (4) restricts the person's advertisement under a trade
21 name.

22 (c) [(d)] The board [commission] shall prescribe the minimum
23 curricula of the subjects and hours of each to be taught by private
24 beauty culture schools and vocational cosmetology programs in
25 public schools.

26 (d) [(e)] The board [commission] shall establish under this
27 Act sanitation rules designed to prevent the spread of infectious

1 or contagious diseases.

2 (e) [(f)] The board [commission] may recognize, prepare, or
3 administer continuing education programs for the practice of
4 cosmetology. Participation in the programs is voluntary.

5 (f) [(g)]--The--commission--shall--provide--to--its--members--and
6 employees,--as--often--as--necessary,--information--regarding--their
7 qualifications--for--office--or--employment--under--this--Act--and--their
8 responsibilities--under--applicable--laws--relating--to--standards--of
9 conduct--for--state--officers--or--employees.

10 [(h)]--The--commission--shall--develop--and--implement--policies
11 that--clearly--define--the--respective--responsibilities--of--the
12 commission--and--the--staff--of--the--commission.

13 [(i)]--The--commission--shall--develop--and--implement--policies
14 that--provide--the--public--with--a--reasonable--opportunity--to--appear
15 before--the--commission--and--to--speak--on--any--issue--under--the
16 jurisdiction--of--the--commission.

17 [(j)]--The--commission--shall--prepare--and--maintain--a--written
18 plan--that--describes--how--a--person--who--does--not--speak--English--or--who
19 has--a--physical,--mental,--or--developmental--disability--can--be--provided
20 reasonable--access--to--the--commission's--programs.

21 [(k)]--The--commission--shall--set--and--monitor--hiring--goals--for
22 women--and--minorities--for--each--program--area--of--the--agency--and--shall
23 coordinate--recruiting--efforts--with--student--organizations--and--other
24 groups--able--to--assist--in--meeting--those--hiring--goals.--The--executive
25 director--shall--prepare--and--submit--a--report--to--the--commission--not
26 later--than--February--1--of--each--year--outlining--the--progress--of--the
27 agency--in--the--recruitment--and--hiring--of--women--and--minority--job

1 applicants.

2 [~~{1}~~] The board [~~commission~~] may request and, if necessary,
3 compel by subpoena the attendance of witnesses for examination
4 under oath and the production for inspection and copying of books,
5 accounts, records, papers, correspondence, documents, and other
6 evidence relevant to the investigation of alleged violations of
7 this Act. If a person fails to comply with a subpoena issued under
8 this subsection, the board [~~commission~~], acting through the
9 attorney general, may file suit to enforce the subpoena in a
10 district court in Travis County or in the county in which a hearing
11 conducted by the board [~~commission~~] may be held. The court, if it
12 determines that good cause exists for the issuance of the subpoena,
13 shall order compliance with the requirements of the subpoena.
14 Failure to obey the order of the court may be punished by the court
15 as contempt.

16 [~~{1}--The-commission-by-rule-shall-establish--and--assess--on~~
17 ~~all--persons--and--entities--licensed--or--regulated-under-this-Act~~
18 ~~reasonable-and-necessary-fees.~~]

19 SECTION 18. Sections 10(b) and (c), Chapter 1036, Acts of
20 the 62nd Legislature, Regular Session, 1971 (Article 8451a,
21 Vernon's Texas Civil Statutes), are amended to read as follows:

22 (b) An applicant for an operator license must be at least 17
23 years of age, have completed the seventh grade or its equivalent,
24 and have completed 1,500 hours of instruction in a licensed beauty
25 culture school or 1,000 hours of instruction in beauty culture
26 courses and 500 hours of related high school courses prescribed by
27 the board [~~commission~~] in a public school vocational program.

1 (c) The application must be made on a form prescribed by the
2 board [~~commission~~] and must be filed at least 10 days before the
3 date set for the examination.

4 SECTION 19. Sections 11(b) and (c), Chapter 1036, Acts of
5 the 62nd Legislature, Regular Session, 1971 (Article 8451a,
6 Vernon's Texas Civil Statutes), are amended to read as follows:

7 (b) An applicant for a manicurist license must be at least
8 17 years of age, have completed the seventh grade or its
9 equivalent, and have completed 600 hours of instruction in
10 manicuring through a training program approved by the board
11 [~~commission~~].

12 (c) The application must be made on a form prescribed by the
13 board [~~commission~~] and must be filed at least 10 days before the
14 date set for the examination.

15 SECTION 20. Sections 12(b), (c), and (e), Chapter 1036, Acts
16 of the 62nd Legislature, Regular Session, 1971 (Article 8451a,
17 Vernon's Texas Civil Statutes), are amended to read as follows:

18 (b) An applicant for an instructor license must be at least
19 18 years of age, have completed the 12th grade or its equivalent,
20 have a valid operator license, and have completed a course
21 consisting of 750 hours of instruction in cosmetology courses and
22 methods of teaching in a licensed private beauty culture school or
23 in a vocational training program of a publicly financed
24 postsecondary institution or at least two years of verifiable
25 experience as a licensed operator and at least 250 hours of
26 instruction in cosmetology in a training program approved by the
27 board [~~commission~~].

1 (c) The application must be on a form prescribed by the
2 board [~~commission~~] and must be filed at least 10 days before the
3 date set for the examination.

4 (e) The board [~~commission~~] shall establish rules for the
5 licensing of specialty instructors to teach specialty courses in
6 the practice of cosmetology as defined in Paragraphs (D) and (F) of
7 Subdivision (3) of Section 1 of this Act.

8 SECTION 21. Sections 13(b), (c), and (e), Chapter 1036, Acts
9 of the 62nd Legislature, Regular Session, 1971 (Article 8451a,
10 Vernon's Texas Civil Statutes), are amended to read as follows:

11 (b) An applicant for a specialty certificate must be at
12 least 17 years of age, have completed the seventh grade or its
13 equivalent, and have the necessary requisites as determined by the
14 board [~~commission~~] in the particular specialty in which
15 certification is sought, including training through a training
16 program approved by the board [~~commission~~].

17 (c) The application must be on a form prescribed by the
18 board [~~commission~~].

19 (e) Subsection (a) of this section does not apply to an
20 individual who has an instructor license or operator license issued
21 by the board [~~commission~~].

22 SECTION 22. Sections 13A(b), (c), and (e), Chapter 1036,
23 Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a,
24 Vernon's Texas Civil Statutes), are amended to read as follows:

25 (b) An applicant for a facialist specialty license must be
26 at least 17 years of age, have completed the seventh grade or its
27 equivalent, and have the necessary requisites as determined by the

1 board [~~commission~~] in the facialist specialty.

2 (c) The application must be on a form prescribed by the
3 board [~~commission~~] and must be filed at least 10 days before the
4 date set for examination.

5 (e) Subsection (a) of this section does not apply to an
6 individual who has an instructor license or operator license issued
7 by the board [~~commission~~].

8 SECTION 23. Section 15(b), Chapter 1036, Acts of the 62nd
9 Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas
10 Civil Statutes), is amended to read as follows:

11 (b) A temporary license shall be issued on submission of an
12 application form prescribed by the board [~~commission~~] and payment
13 of a \$45 temporary license fee if the applicant meets the
14 requirements of Subsection (a) of this section.

15 SECTION 24. Section 16, Chapter 1036, Acts of the 62nd
16 Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas
17 Civil Statutes), is amended to read as follows:

18 Sec. 16. DUPLICATE LICENSE OR CERTIFICATE. (a) A duplicate
19 license or certificate shall be issued upon application on a form
20 prescribed by the board [~~commission~~] and on the payment of a \$35
21 fee.

22 (b) A transcript shall be given to licensees under this Act
23 upon application on a form prescribed by the board [~~commission~~] and
24 payment of a \$5 fee.

25 SECTION 25. Section 17(b), Chapter 1036, Acts of the 62nd
26 Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas
27 Civil Statutes), is amended to read as follows:

1 (b) The applicant shall submit an application on a form
2 prescribed by the board [~~commission~~] and pay a \$100 fee, plus the
3 applicable license or certification fee.

4 SECTION 26. Section 18(b), Chapter 1036, Acts of the 62nd
5 Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas
6 Civil Statutes), is amended to read as follows:

7 (b) A student permit shall be issued on submission of an
8 application form prescribed by the board [~~commission~~] and payment
9 of a \$25 fee which must accompany the application.

10 SECTION 27. Sections 19(b)-(e), Chapter 1036, Acts of the
11 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's
12 Texas Civil Statutes), are amended to read as follows:

13 (b) An applicant for a beauty shop license must submit an
14 application on a form prescribed by the board [~~commission~~]. The
15 application must contain proof of the particular requisites for a
16 beauty shop as established by the board [~~commission~~] and must be
17 verified by the applicant. With the application, the applicant
18 must submit a \$35 inspection fee.

19 (c) The applicant is entitled to a beauty shop license if
20 the application shows compliance with the rules of the board
21 [~~commission~~], a \$45 license fee is paid, and he has not committed
22 an act that constitutes a ground for denial of a license.

23 (d) In order that the public may fix responsibility for
24 services, acts, or treatments performed by persons licensed as
25 barbers by the board [~~State-Board-of--Barber--Examiners~~] vis-a-vis
26 those performed by persons licensed as cosmetologists by the board
27 and [~~Texas-Cosmetology-Commission~~] to promote the efficient and

1 orderly administration of laws regulating barbers and the practice
2 of barbering and the laws regulating cosmetologists and the
3 practice of cosmetology[7-and-to-avoid-confusion-of-the--public--as
4 well--as--avoiding-conflicts-of-jurisdiction-between-such-board-and
5 commission--which--might---impede---effective---administration---or
6 enforcement--of-the-laws-under-their-respective-jurisdictions7-from
7 and-after-January-317-1980]:

8 (1) a person licensed to practice barbering by the
9 [barber] board may practice barbering only at a location for which
10 the board has issued a barber shop permit, barber school or college
11 permit, or any other permit[7---If--the--State--Board--of--Barber
12 Examiners--and--the--Texas--Cosmetology-Commission-license-the-same
13 facility7-the-board-may-not-adopt-rules-restricting-or--prohibiting
14 the-practice-by-a-Class-A-barber-in-the-facility]; and

15 (2) a person licensed to practice cosmetology by the
16 board [cosmetology-commission] may practice cosmetology only at a
17 location for which the board [commission] has issued a beauty shop
18 license, private beauty culture school license, or any other
19 license. [If--the--State--Board-of-Barber-Examiners-and-the-Texas
20 Cosmetology-Commission-license-the-same--facility7--the--commission
21 may--not--adopt--rules-restricting-or-prohibiting-the-practice-by-a
22 cosmetologist-in-the-facility7

23 [(e)--If-the-State-Board-of-Barber-Examiners--and--the--Texas
24 Cosmetology--Commission-license-the-same-facility7-the-agencies-may
25 not-adopt-rules-requiring7

26 [(f)--that-the-work-areas-of-barbers-and-cosmetologists
27 practicing-in-the-facility-be-separated7

1 [(2)--that-the--waiting--areas--for--customers--of--the
2 barbers-and-cosmetologists-practicing-in-the-facility-be-separated;

3 [(3)--that-the-facility-have-separate-restrooms-for-the
4 barbers--or--cosmetologists--practicing--in-the-facility-or-for-the
5 customers-of-the-barbers-and-cosmetologists;-or

6 [(4)--that-the-barbers-and-cosmetologists-practicing-in
7 the-facility-or-the-customers-of-the-barbers-and-cosmetologists--be
8 treated-separately-from-each-other-in-any-similar-manner-]

9 SECTION 28. Sections 20(b)-(d), Chapter 1036, Acts of the
10 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's
11 Texas Civil Statutes), are amended to read as follows:

12 (b) An applicant for a specialty shop license must submit an
13 application on a form prescribed by the board [commission]. The
14 application must contain proof of the particular requisites for a
15 specialty shop as established by the board [commission] and must be
16 verified by the applicant. With the application, the applicant
17 must submit a \$35 inspection fee.

18 (c) The applicant is entitled to a specialty shop license if
19 the application shows compliance with the rules and regulations of
20 the board [commission], a \$45 license fee is paid, and he has not
21 committed an act that constitutes a ground for denial of a license.

22 (d) Subsection (b) of this section does not apply to a shop
23 operated under a beauty shop license issued by the board
24 [commission].

25 SECTION 29. Sections 20A(b)-(d), Chapter 1036, Acts of the
26 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's
27 Texas Civil Statutes), are amended to read as follows:

1 (b) An applicant for a booth rental license must submit an
2 application on a form prescribed by the board [~~commission~~]. The
3 application must contain information as required by rule by the
4 board [~~commission~~] and must be verified by the applicant.

5 (c) The applicant is entitled to a booth rental license if
6 the applicant:

7 (1) pays the application fee set by the board
8 [~~commission~~] in an amount reasonable and necessary to cover the
9 costs of administering the booth rental licensing program;

10 (2) shows compliance with the rules of the board
11 [~~commission~~]; and

12 (3) has not committed an act that constitutes a ground
13 for denial of a license or certificate.

14 (d) The board [~~commission~~] shall adopt rules relating to the
15 information submitted for a booth rental license, including
16 information regarding the applicant's compliance with state and
17 federal tax laws.

18 SECTION 30. Sections 21(b), (c), (e), and (k), Chapter 1036,
19 Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a,
20 Vernon's Texas Civil Statutes), are amended to read as follows:

21 (b) An applicant for a private beauty culture school license
22 must submit an application on a form prescribed by the board
23 [~~commission~~]. Each application must be verified by the applicant
24 and must contain:

25 (1) a detailed floor plan of the school building
26 divided into two separate areas, one for instruction in theory and
27 one clinic work area; and

1 (2) a statement that the building is fireproof and of
2 permanent type construction, contains a minimum of 3,500 square
3 feet of floor space, with separate restrooms for male and female
4 students, and contains or will contain before classes commence the
5 equipment established by rule of the board [~~commission~~] as
6 sufficient to properly instruct a minimum of 50 students.

7 (c) The board [~~commission~~] shall determine that an applicant
8 for a private beauty culture school license is financially sound
9 and capable of fulfilling the school's commitments for training
10 before granting the license.

11 (e) The facilities of each applicant shall be inspected.
12 The applicant is entitled to a private beauty culture school
13 license if the inspection shows that this Act and the rules of the
14 board [~~commission~~] have been met and the applicant has not
15 committed an act that constitutes a ground for denial of a license.

16 (k) If a refund is not made within the period required by
17 this section, the school shall pay interest on the refund for the
18 interval beginning with the first day following the expiration of
19 the refund period and ending with the day immediately preceding the
20 date the refund is made. If the refund is made to a lending
21 institution, the interest shall also be paid to that institution
22 and applied against the student's loan. The commissioner of
23 education annually shall establish the level of interest at a level
24 sufficient to provide a deterrent to the retention of student
25 funds. The board [~~commission~~] may exempt a school from the payment
26 of the interest if the school makes a good faith effort to refund
27 the tuition but is unable to locate the student. The school shall

1 provide to the board [~~commission~~] on request documentation of the
2 effort to locate the student.

3 SECTION 31. Sections 21A(a)-(e), Chapter 1036, Acts of the
4 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's
5 Texas Civil Statutes), are amended to read as follows:

6 (a) In addition to the bond requirements imposed under
7 Section 21(c) of this Act, at the time that each private beauty
8 culture school pays its annual renewal fee, in the years provided
9 by Subsection (c) of this section, the board [~~commission~~] shall
10 also collect a fee from the school for deposit in a special fund
11 established in the state treasury called the private beauty culture
12 school tuition protection fund.

13 (b) The board [~~commission~~] shall determine the amount of the
14 fee by applying a percentage to each school's annual renewal fee.
15 The percentage is the rate determined by the board [~~commission~~]
16 that, when applied to the total of all renewal fees, will result in
17 the collection of \$200,000 for deposit in the fund in the first
18 three years that the fee is collected. The fee assessed under this
19 section may not exceed \$200 per year.

20 (c) Beginning on January 1, 1992, the board [~~commission~~]
21 shall collect the fee for three years. If on January 1, 1995, or
22 on January 1 of any subsequent year the amount in the fund is less
23 than \$200,000, the board [~~commission~~] shall collect a fee during
24 that year by applying a percentage to each school's annual renewal
25 fee at a rate that will bring the balance of the fund to \$200,000.

26 (d) The comptroller [~~state-treasurer~~] shall invest the fund
27 in the same manner as other state funds. Sufficient funds from the

1 tuition protection fund shall be appropriated to the board
2 [~~commission~~] for the purpose outlined in this section. The board
3 [~~commission~~] shall administer claims made against the fund.

4 (e) If a school closes, the board [~~commission~~] shall attempt
5 to arrange for students of the closed school to attend another
6 private beauty culture school.

7 SECTION 32. Section 21B, Chapter 1036, Acts of the 62nd
8 Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas
9 Civil Statutes), is amended to read as follows:

10 Sec. 21B. COURSE LENGTH AND CURRICULUM OF PRIVATE BEAUTY
11 CULTURE SCHOOL. (a) A private beauty culture school must submit
12 to the board [~~commission~~] for approval the course lengths and
13 curriculum content for each course offered by the school. The
14 course lengths and content may not be implemented unless the board
15 [~~commission~~] approves them. The course lengths and content shall
16 reasonably ensure that students develop the job skills and
17 knowledge necessary for employment.

18 (b) The board [~~commission~~] shall require a school to account
19 fully for all curriculum contents and course lengths before issuing
20 or renewing a license, and a school that is manipulating course
21 lengths below or above industry standards shall be placed on
22 probation until justification for the deviation is proved or the
23 practice ceases.

24 SECTION 33. Section 21C, Chapter 1036, Acts of the 62nd
25 Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas
26 Civil Statutes), is amended to read as follows:

27 Sec. 21C. TEMPORARY WORK PERMIT. (a) The board

1 [~~commission~~] may issue a temporary work permit to any student who
2 has completed 1,500 hours of instruction in an approved private
3 beauty school program or 1,000 hours of instruction in beauty
4 culture courses and 500 hours of related high school courses in a
5 public school vocational program and who has applied for the
6 practical examination. The temporary work permit expires on the
7 earlier of the date the student is scheduled for the practical
8 examination or 90 days from the date the temporary permit is
9 issued.

10 (b) The board [~~commission~~] may assess a fee for a temporary
11 work permit. The board [~~commission~~] shall set the fee in an amount
12 reasonable and necessary to defray the costs of administering this
13 section.

14 SECTION 34. Sections 22(b), (c), (d), (f), and (g), Chapter
15 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article
16 8451a, Vernon's Texas Civil Statutes), are amended to read as
17 follows:

18 (b) Each holder of a private beauty culture school license
19 shall furnish to the board [~~commission~~]:

20 (1) the current course completion rates of students
21 who attend a course of instruction offered by the school; and

22 (2) job placement rates and employment rates of
23 students who complete a course of instruction.

24 (c) On the graduation of a student from a course of training
25 offered by a private beauty culture school or the student's
26 withdrawal or transfer from a course of training without completion
27 of the training, the private beauty culture school shall send the

1 board [~~commission~~] a certified written copy of the student's
2 record, indicating all course hours completed by the student and
3 whether the agreed tuition has been paid.

4 (d) A holder of a private beauty culture school license
5 shall furnish each prospective student with:

- 6 (1) a copy of the course outline;
- 7 (2) a schedule of the tuition and other fees assessed;
- 8 (3) the refund policy required under Section 21 of
9 this Act;
- 10 (4) school regulations relating to absences;
- 11 (5) the school grading policy;
- 12 (6) the school rules of operation and conduct;
- 13 (7) school regulations relating to incomplete grades;
- 14 (8) the name, mailing address, and telephone number of
15 the board [~~commission~~] for the purpose of directing complaints to
16 the board [~~commission~~]; and
- 17 (9) the current rates of job placement and employment
18 of students who complete a course of training.

19 (f) If the board [~~commission~~] has reasonable cause to
20 believe that a private beauty culture school has violated this Act
21 or a rule adopted under this Act, the board [~~commission~~] may order
22 a peer review of the school or suspend the admission of students to
23 the school. A peer review ordered under this subsection shall be
24 conducted by a peer review team composed of knowledgeable persons
25 selected by the board [~~commission~~]. The board [~~commission~~] shall
26 attempt to provide a balance on each team between members assigned
27 to the team who are from this state and those who are from other

1 states. The team shall provide the board [~~commission~~] with an
2 objective assessment of the content of the school's curriculum and
3 its application. The school under review shall pay the costs of
4 the peer review.

5 (g) A private beauty culture school that violates this Act
6 or a rule adopted under this Act is liable for a civil penalty in
7 addition to any injunctive relief or other remedy provided by law.
8 The civil penalty may not exceed \$1,000 a day for each violation.
9 The attorney general, at the request of the board [~~commission~~], may
10 bring a civil action to collect a civil penalty under this
11 subsection. Civil penalties recovered in a suit brought under this
12 subsection shall be deposited in the state treasury to the credit
13 of the General Revenue Fund.

14 SECTION 35. Section 29, Chapter 1036, Acts of the 62nd
15 Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas
16 Civil Statutes), is amended to read as follows:

17 Sec. 29. RIGHT OF ACCESS. The board [~~commission~~], an
18 inspector, or any duly authorized representative of the board
19 [~~commission~~] may enter the premises of any licensee at any time
20 during normal business hours and in such manner as not to interfere
21 with the conduct or operation of the business or school to
22 determine whether or not the licensee is in compliance with this
23 Act and the rules of the board [~~commission~~].

24 SECTION 36. Section 30, Chapter 1036, Acts of the 62nd
25 Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas
26 Civil Statutes), is amended to read as follows:

27 Sec. 30. EXAMINATIONS. (a) The board [~~commission~~] shall

1 use a written examination, selected by the board [~~commission~~], to
2 examine license applicants and may require a practical examination
3 for licenses and certificates issued under this Act, as the board
4 [~~commission~~] considers necessary. The written examination must be
5 validated by independent testing professionals or be purchased from
6 a national testing service. The board [~~commission~~] shall prescribe
7 the method and content of any practical examination.

8 (b) On receipt of a written request by a student, the board
9 [~~commission~~] may provide for the early written examination of a
10 cosmetology operator license student who has completed at least
11 1,000 hours of instruction in a training program approved by the
12 board [~~commission~~]. Agency inspectors may administer an
13 examination conducted under this subsection on-site at beauty
14 culture schools throughout the state.

15 (c) Examinations shall be conducted beginning the first of
16 each month unless it is a legal holiday, in which case the
17 examination shall begin on the following day. The site of the
18 examinations shall be announced at least six months prior to the
19 administration date. Examinations may not be conducted in the
20 schools of board [~~commission~~] members.

21 (d) Not later than the 30th day after the date on which an
22 examination is administered under this Act, the board [~~commission~~]
23 shall notify each examinee of the results of the examination.
24 However, except as otherwise provided by this subsection, if an
25 examination is graded or reviewed by a national testing service,
26 the board [~~commission~~] shall notify examinees of the results of the
27 examination not later than the 14th day after the date on which the

1 board [~~commission~~] receives the results from the testing service.
2 If the notice of examination results graded or reviewed by a
3 national testing service will be delayed for longer than 90 days
4 after the examination date, the board [~~commission~~] shall notify the
5 examinee of the reason for the delay before the 90th day. If the
6 examinee is a student in a vocational cosmetology program in a
7 public school, the board [~~commission~~] shall grade the examination
8 and may not submit the examination for grading by a national
9 testing service. If requested in writing by a person who fails the
10 examination, the board [~~commission~~] shall send to the person not
11 later than the 60th day after the day on which the request is
12 received by the board [~~commission~~] an analysis of the person's
13 performance on the examination.

14 SECTION 37. Sections 33(d), (e), (h), and (i), Chapter 1036,
15 Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a,
16 Vernon's Texas Civil Statutes), are amended to read as follows:

17 (d) All licenses and certificates issued by the board
18 ~~[commission]~~ may be prorated for the number of months the license
19 or certificate will be valid.

20 (e) A license that has been expired for less than 30 days
21 may be renewed. A renewal license shall be issued on submission of
22 a completed application form prescribed by the board [~~commission~~]
23 and payment of the renewal fee, plus a \$10 delinquency fee.

24 (h) A private beauty culture school license that has been
25 expired for more than 30 days may not be renewed. The licensee may
26 apply for an original license under the current requirements and
27 fees. The board [~~commission~~] may not accept credit hours for

1 examination after the 30th day of expiration of a license subject
2 to this subsection.

3 (i) The board [~~commission~~] by rule shall establish the
4 delinquency fee for a booth rental license.

5 SECTION 38. Section 34(b), Chapter 1036, Acts of the 62nd
6 Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas
7 Civil Statutes), is amended to read as follows:

8 (b) The board [~~commission~~] by rule shall establish the
9 renewal fee for a booth rental license.

10 SECTION 39. Section 35(a), Chapter 1036, Acts of the 62nd
11 Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas
12 Civil Statutes), is amended to read as follows:

13 (a) If an inspector discovers a violation of this Act or of
14 a rule established by the board [~~commission~~], he shall give written
15 notice of the violation on a form prescribed by the board
16 [~~commission~~] to the violator, and if the violation is not corrected
17 in 10 days from the date of notice, the inspector shall file a
18 complaint with the executive director.

19 SECTION 40. Section 38(a), Chapter 1036, Acts of the 62nd
20 Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas
21 Civil Statutes), is amended to read as follows:

22 (a) The board [~~commission~~] may sue in district court to
23 enjoin or restrain a person from violating any section of this Act
24 or the board [~~commission~~] rules.

25 SECTION 41. (a) This Act takes effect September 1, 1997.

26 (b) The following laws are repealed:

27 (1) Sections 23, 26, 26a, 26b, 26c, 27, 29A, 29C, and

1 29D, Chapter 65, Acts of the 41st Legislature, 1st Called Session,
2 1929 (Article 8407a, Vernon's Texas Civil Statutes);

3 (2) Section 29B, Chapter 65, Acts of the 41st
4 Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's
5 Texas Civil Statutes), as amended by Chapters 561 and 629, Acts of
6 the 72nd Legislature, Regular Session, 1991;

7 (3) Sections 2, 3, 5, 6, 8, 28, 37, and 41, Chapter
8 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article
9 8451a, Vernon's Texas Civil Statutes); and

10 (4) Section 7, Chapter 1036, Acts of the 62nd
11 Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas
12 Civil Statutes), as amended by Chapters 561 and 626, Acts of the
13 72nd Legislature, Regular Session, 1991.

14 (c) The State Board of Barber Examiners and the Texas
15 Cosmetology Commission are abolished but continue in existence
16 until September 1, 1998, for the sole purpose of transferring
17 obligations, property, rights, powers, and duties to the Texas
18 Board of Barber and Cosmetologist Examiners created under this Act.
19 The Texas Board of Barber and Cosmetologist Examiners assumes all
20 of the obligations, property, rights, powers, and duties of the
21 State Board of Barber Examiners and the Texas Cosmetology
22 Commission, as exercised by those agencies immediately before the
23 effective date of this Act. All unexpended funds appropriated to
24 the State Board of Barber Examiners and the Texas Cosmetology
25 Commission are transferred to the Texas Board of Barber and
26 Cosmetologist Examiners. The transfer of the obligations,
27 property, rights, powers, and duties of the State Board of Barber

1 Examiners and the Texas Cosmetology Commission to the Texas Board
2 of Barber and Cosmetologist Examiners must be completed not later
3 than September 1, 1998.

4 (d) All rules of the State Board of Barber Examiners and the
5 Texas Cosmetology Commission are continued in effect as rules of
6 the Texas Board of Barber and Cosmetologist Examiners until
7 superseded by a rule of the Texas Board of Barber and Cosmetologist
8 Examiners. A license, permit, or registration issued by the State
9 Board of Barber Examiners or the Texas Cosmetology Commission is
10 continued in effect as provided by the law in effect immediately
11 before the effective date of this Act. A complaint, investigation,
12 contested case, or other proceeding pending on the effective date
13 of this Act is continued without change in status after the
14 effective date of this Act.

15 SECTION 42. (a) In making the initial appointments to the
16 Texas Board of Barber and Cosmetologist Examiners, the governor
17 shall appoint:

18 (1) one person licensed as a barber, one person
19 licensed as a cosmetologist, and one public member to serve terms
20 expiring February 1, 1999;

21 (2) one person licensed as a barber, one person
22 licensed as a cosmetologist, and one public member to serve terms
23 expiring February 1, 2001; and

24 (3) one person licensed as a barber, one person
25 licensed as a cosmetologist, and one public member to serve terms
26 expiring February 1, 2003.

27 (b) An initial board member appointed under this section is

1 exempt from the board member training requirements under Section
2 16, Article 8475, Revised Statutes, as added by this Act.

3 SECTION 43. The importance of this legislation and the
4 crowded condition of the calendars in both houses create an
5 emergency and an imperative public necessity that the
6 constitutional rule requiring bills to be read on three several
7 days in each house be suspended, and this rule is hereby suspended.

S.B. No. 719

By Duncan

A BILL TO BE ENTITLED

AN ACT:

Relating to the regulation of barbers and cosmetologists under the Texas Board of Barber and Cosmetologist Examiners and the abolition of the State Board of Barber Examiners and the Texas Cosmetology Commission.

FEB 24 1997

Filed with the Secretary of the Senate

FEB 26 1997

Read and referred to Committee on STATE AFFAIRS

Reported favorably _____

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by: { unanimous consent
_____ yeas, _____ nays

Read second time, _____, and ordered engrossed by: { unanimous consent
a viva voce vote
_____ yeas, _____ nays

Senate and Constitutional 3 Day Rule suspended by a vote of _____ yeas, _____ nays.

Read third time, _____, and passed by: { A viva voce vote
_____ yeas, _____ nays

SECRETARY OF THE SENATE

OTHER ACTION:

_____ Engrossed

_____ Sent to House

Engrossing Clerk _____

_____ Received from the Senate

_____ Read first time and referred to Committee on _____

_____ Reported _____ favorably (as amended) (as substituted)

_____ Sent to Committee on (Calendars) (Local & Consent Calendars)

_____ Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Constitutional rule requiring bills to be read on three several days suspended (failed to suspend) by a vote of _____ yeas, _____ nays, _____ present, not voting.

_____ Read third time (amended); finally passed (failed to pass) by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Returned to Senate.

_____ Returned from House without amendment.

_____ Returned from House with _____ amendments.

_____ Concurred in House amendments by a viva voce vote _____ yeas, _____ nays.

CHIEF CLERK OF THE HOUSE

_____ Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

_____ Senate conferees instructed.

_____ Senate conferees appointed: _____, Chairman; _____
_____, _____, and _____

_____ House granted Senate request. House conferees appointed: _____, Chairman;
_____, _____, _____.

_____ Conference Committee Report read and filed with the Secretary of the Senate.

_____ Conference Committee Report adopted on the part of the House by: _____

{ a viva voce vote
_____ yeas, _____ nays

_____ Conference Committee Report adopted on the part of the Senate by:

{ a viva voce vote
_____ yeas, _____ nays

OTHER ACTION:

_____ Recommitted to Conference Committee

_____ Conferees discharged.

_____ Conference Committee Report failed of adoption by: _____

{ a viva voce vote
_____ yeas, _____ nays